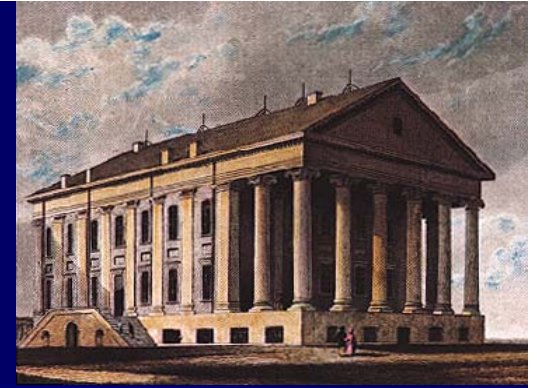


Virginia State Crime Commission

Law Enforcement Work Group:
Police Lineup Procedures

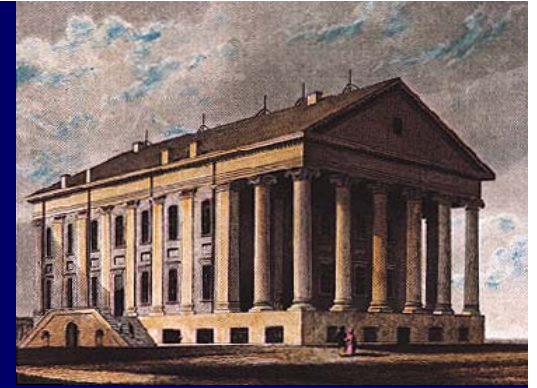
June 16, 2010

Overview



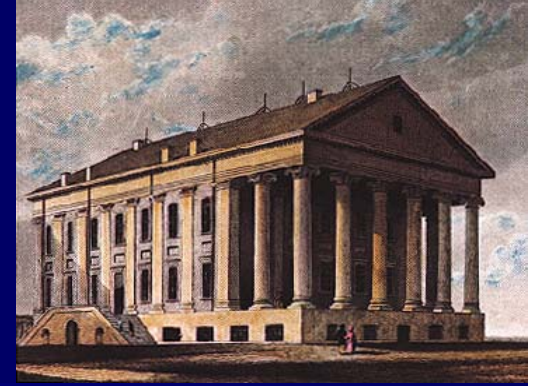
- Study Authorization
- Study Issues
- Study Methodology
- Mistaken ID Study
- HB 207 and DCJS Sample Directive
- Statistics and other state trends
- Fall Study Plan

Study Authorization



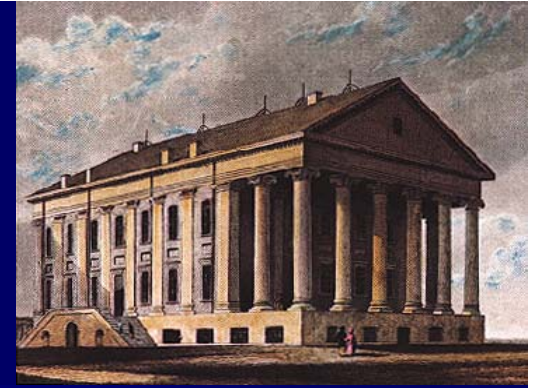
- House Bill 207, introduced by Delegate Alexander during the 2010 Session of the General Assembly, was referred by the House Courts of Justice to the Crime Commission for study.
- The bill proposes to codify lineup procedures; specifically, it would require:
 - Independent lineup administrators;
 - The use of the sequential method;
 - Recording the lineup results; and,
 - The use of specific types of fillers for lineups.

Study Issues



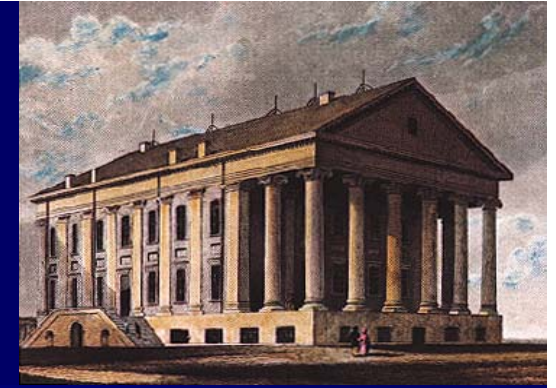
- Should lineup procedures be mandated by statute?
- Does the current DCJS policy need to be changed or updated?
- Should there be a requirement for specific lineup procedure(s)?

Study Methodology



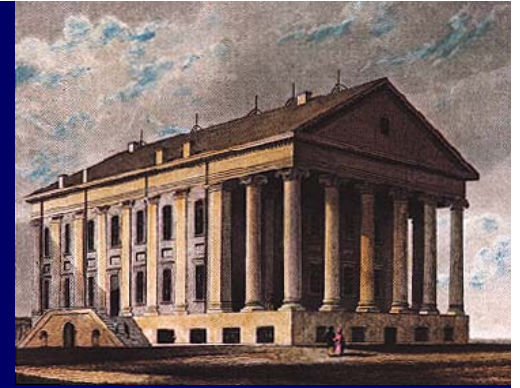
- Conduct literature review
- Identify data and policy resources, for example:
 - Innocence Project exoneration data
 - Other state statutes or regulations
- Law Enforcement Work Group
- Review of lineup policies and law enforcement training standards
- Survey Virginia law enforcement agencies to determine:
 - what type of policy they have, with regard to the requirement in § 19.2-390.2;
 - how long the policy has been in place; and,
 - training.

Mistaken ID Study



- The Crime Commission previously studied (2004) the issue of mistaken identification. That study resolution specifically requested the Crime Commission to:
 - review cases in the United States in which DNA profiling was used to exonerate persons convicted of a crime;
 - examine the procedures used in traditional police lineups or photographic review; and,
 - consider the sequential method as a procedure for identifying suspects.

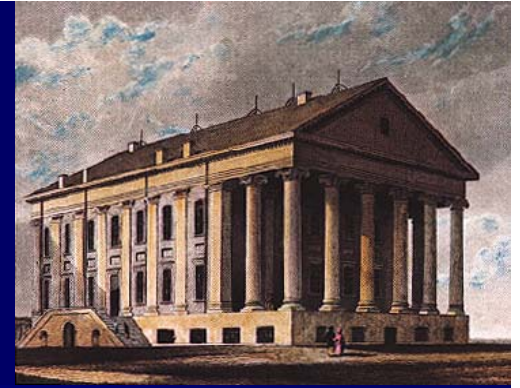
Study Results



- As a result of the study, the following changes were made:
 - § 19.2-390.2 was created, requiring local police and sheriff's departments to have a written policy for conducting in-person and photographic lineups.
 - DCJS created a sample directive in 2005, General Order 2-39 (Suspect Lineup Procedure), which is a policy for conducting in-person and photographic lineups using the sequential method.
 - DCJS offers entry level training regarding lineups that recommends use of the sequential method.

HB 207 and DCJS

Sample Directive



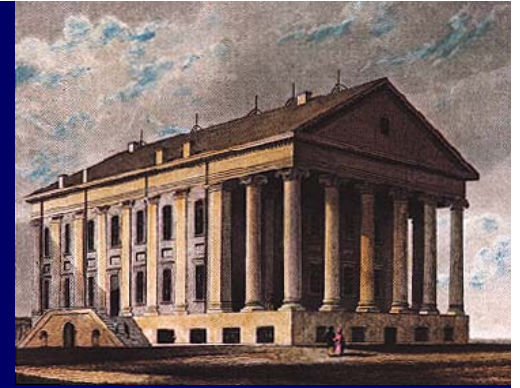
- The sample directive created by DCJS has some similarities with HB 207 (sequential method, use of fillers, recordation), but there are two significant differences:
 - HB 207 would make the practices statutorily mandated; and,
 - General Order 2-39 does not require the use of independent lineup administrators.

Statistics and Other State Trends



- There is no database or available set of information that indicates how often misidentifications occur or how many of them are factors in criminal cases. There is a limited set of data based on DNA exonerations, compiled by the Innocence Project.
 - Nationally, there have been of 254 exonerations, 190 of them involved at least one misidentification.
 - Virginia has had a total of 11 exonerations, 9 involved a misidentification.
- Since the 2004 Crime Commission study, there have been other states that have addressed line-up procedures:
 - North Carolina (statutory, similar to HB 207);
 - Ohio (statutory);
 - Georgia (creation of a House study Committee for eyewitness identification procedures);
 - Vermont (legislature has created a committee to review statewide eyewitness identification procedures);
 - West Virginia (legislature created a task force to study and identify best practices for eyewitness identification); and,
 - Wisconsin (has required, by statute, that law enforcement shall consider adopting policies that include blind administration and the sequential method).

Fall Study Plan



- Present study findings to the full Crime Commission (tentatively):
 - September 8th (study update)
 - November 15th (full-report)
 - December 8th (discuss legislation, if any)
- All meetings will be held at 10:00 a.m. in Senate Room A of the General Assembly Building.

**If you have any questions or comments
please contact:**

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